

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.3.2007

CORAM:

THE HONOURABLE MR.JUSTICE P.K.MISRA
AND
THE HONOURABLE MR.JUSTICE J.A.K.SAMPATHKUMAR

H.C.P.No.1184 of 2006

Ramesh, aged about 35 years
S/o.Subramani ... Petitioner

vs.

1.The Secretary to the Government
Prohibition and Excise Department
Government of Tamil Nadu
Fort St. George
Chennai.600 009.

2.The Commissioner of Police
Greater Chennai
Egmore
Chennai.600 008.

... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of habeas corpus, to call for the records relating to the detention order No.156/2006 dated 23.6.2006 passed by the 2nd respondent and set aside the same and direct the respondents to produce the body of the detenu Ramesh, S/o.Subramani, aged about 35 years, detenu now confined in Central Prison, Chennai, before this court and set him at liberty forthwith.

For petitioner : M/s.A.K.S.Thahir
For respondents : Mr.M.Babu Muthu Meeran, Addl.P.P.

WEB COPY

ORDER

(The Order of the Court was made by P.K.MISRA,J.)

Heard the learned counsel appearing for the parties. The impugned order of detention passed on the allegation that the detenu is a 'Goonda' is in question.

2.Even though several contentions have been raised, it is not necessary to refer to all those contentions, as, in our opinion, the contention relating to the delay in disposing of the representation is accepted.

3.From the materials on record, it appears that the representation dated 6.11.2006 was received on 9.11.2006 and remarks were called for on 10.11.2006 and the remarks were received on 16.11.2006. However, the file was submitted thereafter only on 22.11.2006. There is no explanation forthcoming as to why, after the remarks were received, the file was not submitted immediately. In the absence of any explanation, we are inclined to quash the order of detention.

4.The aforesaid conclusion is supported by the earlier unreported decision of this court rendered in H.C.P.No.308/2006 dated 21.6.2006, where on account of the unexplained delay of four days in placing the file, was found sufficient to quash the order of detention.

5.For the aforesaid reasons, we quash the order of detention dated 23.6.2006 and the same is set aside and this Habeas Corpus Petition is allowed. The detenu is directed to be set at liberty forthwith from the custody if the detenu is not required in connection with any other case .

sks

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To:

1.The Secretary to the Government
Prohibition and Excise Department
Government of Tamil Nadu
Fort St. George
Chennai.600 009.

2.The Commissioner of Police
Greater Chennai
Egmore
Chennai.600 008.

3.The Public Prosecutor,
High Court, Madras.

4. the Superinten, Central Prison, Chennai,
(In duplicate for communication to Detenue)

5. The Joint Secretary to Government
Public (Laaw and Order) Department,
Forst St George, Chennai.9.

+ One cc to Mr. A.K.S. Thahir, Advocate SR 16627

TM (co)

sg 4/4/07

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